

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

CHARLEY JOE STARR, JR.)	
)	
Petitioner,)	
)	
v.)	Case No. CIV 02-694-JHP
)	
RANDALL WORKMAN, Warden,)	
)	
Respondent.)	

**ORDER AFFIRMING AND ADOPTING THE FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

On December 16, 2002, Petitioner Charley Joe Starr, Jr., an inmate currently incarcerated at Dick Conner Correctional Center in Hominy, Oklahoma, commenced this action with the filing of a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 in this Court. Petitioner challenges his conviction for Manufacture of a Controlled Dangerous Substance (Count I) and Possession of a Controlled Dangerous Drug with Intent to Distribute within 2000 Feet of a School (Count II) in Sequoyah County District Court case number CF-2000-665 on grounds that (1) he was denied direct appeal of his conviction through ineffective assistance of trial counsel; and (2) the motion to withdraw his guilty plea should have been granted based on the technical errors contained in the Summary of Facts.

On February 28, 2006, the United States Magistrate Judge entered findings and recommendations denying both bases for Petitioner's challenge. Specifically, the Magistrate Judge found that the Oklahoma Court of Criminal Appeals' determination that Petitioner was not denied a direct appeal because of ineffective assistance of counsel was neither unreasonable nor contrary to federal law. The Magistrate Judge also agreed with previous findings that Petitioner

entered his plea knowingly and voluntarily. Further, the Magistrate Judge found that the errors contained in the Summary of Facts (*i.e.*, that Petitioner signed where his attorney should have signed, and *vice versa*) did not render the plea proceedings fundamentally unfair or in any other way merit federal habeas relief, in accordance with James v. Gibson, 211 F.3d 543, 555 (10th Cir. 2000).

Petitioner timely filed Objections to the Magistrate Judge's Report on March 14, 2006, in which Petitioner urges this Court to reject the Magistrate Judge's Report as insufficient to refute Petitioner's sworn allegation in ground one of his habeas petition. Petitioner also reurges his arguments in support of ground two. Upon careful review of the record in this case, however, this Court agrees with the previous findings that Petitioner did not suffer from ineffective assistance of counsel under the test adopted in Strickland v. Washington, 466 U.S. 668 (1984), and that Petitioner knowingly and voluntarily entered his guilty plea. The Court finds the Magistrate Judge's Report to be well-supported in both fact and law, and accordingly finds Petitioner's Objections to be without merit.

Upon this Court's full consideration of the pleadings filed in this case and the applicable legal authorities, the Findings and Recommendation of the United States Magistrate Judge are AFFIRMED and ADOPTED as this Court's Findings and Order. Therefore, the Petition for Writ of Habeas Corpus is hereby DENIED and this action is DISMISSED.

IT IS SO ORDERED this 26th day of May 2006.


James H. Payne
United States District Judge
Eastern District of Oklahoma